

No. PD- 1096-19-

EX PARTE CHRISTOPHER RION,
Appellant

THE STATE OF TEXAS,
Appellee

FILED
COURT OF CRIMINAL APPEALS
In the 10/15/2019
Court of Criminal Appeals of Texas, CLERK
Appeals of Texas
at Austin

**STATE’S MOTION FOR EXTENSION OF TIME
TO FILE PETITION FOR DISCRETIONARY REVIEW**

The State of Texas respectfully requests, in accordance with the Texas Rules of Appellate Procedure, that this Court grant the State an extension of time to file the State’s Petition for Discretionary Review. *See* Tex. R. App. P. 68.2(c).

In support, the State shows the following:


1. In this case, the Criminal District Court No. 5 of Dallas County denied appellant’s pretrial application for writ of habeas corpus, which was based on the doctrine of collateral estoppel.
2. Appellant appealed the trial court’s order to the Fifth District Court of Appeals at Dallas, which held that the trial court abused its discretion in denying the application and that the doctrine of collateral estoppel barred the State from prosecuting appellant for aggravated assault. *Ex parte Rion*, No. 05-19-00280-CR, 2019 WL 4386371, at *1 (Tex. App.—Dallas Sept. 13, 2019, no pet. h.) (mem. op., not designated for publication).
3. The court of appeals issued its judgment on September 13, 2019.

4. In the court of appeals, this case was styled *Ex parte Christopher Rion*, No. 05-19-00280-CR.
5. The State filed (1) a motion for rehearing and (2) a motion for extension of time to file motion for rehearing on October 13, 2019. Those motions remain pending.
6. The State respectfully requests a 30-day extension of time to file the State's petition for discretionary review.
7. The undersigned prosecutor will be unable to complete the State's petition by the current deadline for the following reasons:
 - a. The undersigned filed in the court of appeals a motion for rehearing and a motion for extension of time to file a motion for rehearing on October 13, 2019. The timing and substance of those motions were based on this Court's decision in *Ex parte Adams*, No. PD-0711-18, 2019 WL 5057265 (Tex. Crim. App. Oct. 9, 2019), which this Court decided after the normal deadline to file a motion for rehearing.
 - b. The undersigned was representing the State in pre-execution litigation in *The State of Texas v. Robert Sparks* (F08-01020-VJ). Sparks's execution took place on September 25, 2019.

- c. The undersigned is representing the State in pre-execution litigation in *The State of Texas v. Patrick Henry Murphy Jr.* (F01-00328-T).
Murphy's execution is scheduled for November 13, 2019.
 - d. The undersigned filed the State's Brief in *Gary Don Bloys v. The State of Texas* (05-18-01551-CR) on September 26, 2019.
 - e. The undersigned filed the State's Brief in *Angel Rivera III v. The State of Texas* (05-19-00002-CR) on October 9, 2019.
 - f. The undersigned is representing the State in *Brandon Velasquez v. The State of Texas* (05-19-00003-CR).
 - g. The undersigned is representing the State in *Arturo Gamiz v. The State of Texas* (05-19-00434-CR).
 - h. The undersigned is responsible for responding to applications for writs of habeas corpus on behalf of the State. These duties entail filing responses in various district courts, preparing proposed findings of fact and conclusions of law, and conducting evidentiary hearings.
 - i. The undersigned is a member of trial teams prosecuting several defendants, in separate criminal transactions, for felonies of the first degree.
8. The State has not previously requested an extension of time to file a petition for discretionary review in this case.

The State therefore prays that this Court grant the State's motion and grant the State a 30-day extension of time to file its petition for discretionary review.

Respectfully submitted,




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CERTIFICATE OF SERVICE

I certify that a true copy of this document was served on Michael Mowla as counsel for appellant on October 14, 2019. Service was made via electronic service to michael@mowlalaw.com.



Brian P. Higginbotham